

Concise Explanatory Statement (RCW 34.05.325(6))
General Tax Rules

Prepared by Art Wang, Special Assistant for Unemployment Taxes
Nov. 20, 2007

Reasons for Rules: These rules generally implement 2007 unemployment insurance tax legislation, including SHB 1278 (C51, L07) tax rates for new businesses; sections of ESSB 5373 (C146, L07) omnibus bill, including reporting requirements, penalties, and corporate officers; SSB 5534 (C366, L07) small theaters; SSB 5702 (C387, L07) notices to religious organizations; and SSB 5915 (C287, L07) unemployment notices to businesses. The rules also update, clarify, and publish policies following a comprehensive review of existing tax-related rules. For more details, see Written Testimony of Employment Security Department at the public hearing on Nov. 8, 2007, available in the rules file.

Differences from Proposed Rules Published in CR-102: Minor editing changes.

Comments Received on Proposed Rules Published in CR-102: None. See Written Testimony (cited above) for documentation of involvement by stakeholders prior to this.

Comments Received Prior to Proposed Rules:

Representatives of business organizations recommended:

- Do not repeat RCWs in WACs if the statute is clear.
- Make interpretations on corporate officers consistent with the Department of Labor and Industries.
- Define corporate officers to be limited to top executive management.
- Different groups made different recommendations on not allowing reinstatement of an individual corporate officer who withdraws the individual's voluntary agreement.
- Allow exemption of corporate officer in-laws in family corporations.
- Make employer reporting simple and consistent with Master Business Application; incorporate change forms with quarterly reports.
- Clarify definitions for reporting requirements, e.g., corporate officers, nonprofit corporations, partnerships.
- No rules are necessary for section on personal liability for willfully evading taxes.
- Groups differed on whether to define fraud for tax purposes.
- Penalties for incomplete or incorrectly formatted reports should start anew with first occurrence generating only a warning letter.
- Require specific authorization for employer representatives.

Representatives of arts organizations recommended:

- Follow the intent of legislation to make it easy for small-medium theater organizations by treating the three employee limit as if for full-time employees.
- If an organization exceeds the limit, make filing for stipends prospective only.

Representatives of labor organizations recommended:

- Do not repeat RCWs in WACs if the statute is clear.
- Do not allow corporate officers to game the system.

Results:

Almost all comments are reflected in the rules. Major issues in comments that were not adopted were:

- Interpretations of corporate officers were made consistent with the Department of Labor & Industries instead of creating a new definition limiting them to executive management.
- Individual corporate officers are not reinstated if they revoke their individual voluntary exemptions in order to prevent them from “gaming” the system.
- Penalties for incomplete or incorrectly formatted quarterly reports will not start over afresh. Employers in violation will not start with warning letters again as if they had never received them or been penalized before. However, ESD has revised its tracking system so that employers who had violated on more than one occasion, but may have been unaware of it because the amount of the minimum penalty had been so small, will be treated as if it were only their second violation.